



DEPARTMENT OF THE ARMY
U.S. ARMY CONTRACTING AGENCY
HEADQUARTERS, NORTHERN REGION
11 BERNARD ROAD
FORT MONROE, VA 23651-1001

SFCA-NR

20 SEP 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Customer Funding of Contract Requirements

1. I am issuing this guidance in response to contracting office questions related to fiscal year-end and customer funding issues. As business advisors it is incumbent upon each Northern Region employee to work with all customers, including IMA and other MACOMs that are experiencing very serious funding issues to determine appropriate business solutions. These solutions will often cause additional workload.
2. Incremental funding of fixed-price service contracts for base services and hazardous toxic waste remediation is permissible. Funding is desired on a quarterly basis and no less than a monthly basis. The clause 252.232-7007, Limitation of Governments Obligation, is required in all incrementally funded fixed price service contracts.
3. If an incrementally funded cost-reimbursement contract is contemplated, insert contract clause 52.232-22 -- Limitation of Funds.
4. New Purchase Orders, Delivery Orders, Task Orders and Contracts should not be awarded unless fully funded. If a customer presents a new requirement that is not fully funded, notify your ACA NR Analyst in the Contract Operations Division before accepting.
5. Requests for de-obligation of funds on a contract shall only be completed with a corresponding reduction in service or term of contract.
6. There are two "bright lines" that may never be crossed. First, there must always be funding in place before work is ordered. Under no circumstances is after-the-fact funding of contracts permissible. A simple example of the distinction: it is permissible to issue a funding modification to a contract on 1 January 2005 to fund performance for the period 1 January 2005 thru 31 March 2005; it is NOT permissible to issue a funding modification on 1 January 2005 to fund performance that occurred during the period 1 October 2004 thru 31 December 2004; or issuing a funding modification on 1 February 2005 to fund performance during the period 25 January 2005 thru 31 March 2005. If funding is not in place or is exhausted, the contracting officer should **immediately** issue a stop work order. Only emergency services involving the safety of human life or the protection of property may be continued without funding. The second problem

20 SEP 2005

concerns ID/IQ contracts. The GAO recently issued a decision holding that the full funding of the guaranteed minimums of ID/IQ contracts at time of award is required by statute. In light of that decision, the Army cannot incrementally fund guaranteed minimums.

7. Contracting officers and DOCs will advise their customers when available funds are nearing exhaustion and request additional funds to continue contract performance. If funds are not received, the contracting officer will issue a stop work notice to the contractor until such time that additional funds become available to continue performance. The requiring activity should be advised there may be additional start-up costs or performance time delays when performance re-starts.

8. Report any situation requiring a stop work notice to your installation analyst in the Contract Operations Division and the Garrison Resource Manager in advance of issuance.

9. Continuing Resolution Authority. The Army expects that it will be operating under a Continuing Resolution Authority (CRA) during the beginning of the next fiscal year. If this is the case, then funds made available pursuant to the CRA may be used to support contracts that were in place prior to the CRA. No new initiatives or starts are permitted. Contracts prepared up to the point of award but not funded in the new fiscal year are considered new contracts and cannot be awarded under a CRA. Under a continuing resolution, if a contracting officer receives written assurance from a responsible fiscal authority that adequate funds are available the continuing work may be funded. When Congress passes a continuing resolution, the contracting officer should notify the contractor immediately that funds are available for the period of time covering the continuing resolution, and then issue a modification to the contract. For example, if Congress passes a two week continuing resolution, notify the contractor that work may continue for the next two weeks and modify the contract to include prorated funding for two weeks. If additional continuing resolutions are issued the contracting officer will again notify the contractor and issue appropriate prorated contract modifications until the appropriation act is passed.

10. If you have questions or need assistance please contact Ed Cooke commercial 757 788-4180 or Debbie Emerson 757 788-4331, or DSN prefix is 680.



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Principal Assistant
Responsible for Contracting

20 SEP 2005

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